

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
)
) No. 08-CV-03507
v.)
) Judge Robert W. Gettleman
JANUSZ ROBAK)

**GOVERNMENT'S MOTION FOR ORDER AUTHORIZING
DISCLOSURE OF ATTORNEY-CLIENT COMMUNICATIONS**

The United States of America, by its attorney, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, respectfully moves this Court for an order authorizing attorneys George Pappas, Kelly A. O'Brien, Linda S. Amdur, Robert A. Novelle, Sr., and Timothy R. Roellig to disclose attorney-client communications to the government in order for the government to respond to defendant Janusz Robak's motion for resentencing brought under Title 28, United States Code, Section 2255. In support of this motion, the government states as follows:

1. On June 18, 2008, defendant filed his Motion to Vacate, Set Aside, or Correct Sentence By a Person in Federal Custody. Dkt. #1.
2. In his motion, defendant repeatedly alleges that the above-referenced counsel provided him with ineffective assistance with regard to their advice, strategy, and/or performance at various times during the case before this Court captioned *United States v. Janusz Robak*, No. 04CR693, and in defendant's appeal to the Seventh Circuit Court of Appeals (No. 06-2451). *See generally* Dkts. #1 and #3.
3. It is well-established that the attorney-client privilege is waived when, as here,

a client alleges a breach of duty to him by his attorney. *See, e.g., Laughner v. United States*, 373 F.2d 326, 327 (5th Cir. 1967); *see also Paters v. United States*, 159 F.3d 1043, 1047 n.6 (7th Cir. 1998) (“[T]he attorney-client privilege is generally waived when the client asserts claims or defenses that put his attorney’s advice at issue in the litigation.”) (internal quotation and citation omitted).

4. Defendant’s waiver of the attorney-client privilege is further demonstrated by his requests in his motion that the Court order the above-referenced attorneys to submit to depositions, and his request that an evidentiary hearing be held where such attorneys would be called to testify. *See* Dkt. #1 at 27-28.

5. In order to fully and effectively respond to defendant’s motion, the government will likely need to speak with attorneys George Pappas, Kelly A. O’Brien, Linda S. Amdur, Robert A. Novelle, Sr., and Timothy R. Roellig concerning defendant’s allegations.

For the foregoing reasons, the government respectfully requests that the Court grant its motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document: ATTORNEY DESIGNATION was served on August 21, 2008, in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers. Copies of this document were also served by First Class U.S. Mail on the following:

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